

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6368

BILL NUMBER: SB 90

NOTE PREPARED: Jan 28, 2008

BILL AMENDED: Jan 24, 2008

SUBJECT: Operating While Intoxicated Offenses and Procedures.

FIRST AUTHOR: Sen. Alting

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Crimes of Violence: It specifies that felony resisting law enforcement and operating while intoxicated (OWI) causing serious bodily injury are crimes of violence.

It makes:

- (1) OWI committed by a person with a previous conviction for OWI resulting in serious bodily injury a Class C felony;
- (2) OWI causing serious bodily injury a Class C felony;
- (3) OWI causing serious bodily injury committed by a person with a previous conviction for OWI a Class B felony; and
- (4) OWI causing death committed by a person with a blood alcohol level greater than 0.15% a Class A felony.

License Suspension: The bill permits a court to require a license suspension imposed as the result of a conviction for OWI to be imposed before or after, or both before and after, any period of incarceration.

Leaving the Scene of an Accident: It makes leaving the scene of an accident after committing OWI causing death or serious bodily injury a Class B felony.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Summary-* State expenditures would increase if an offender is

incarcerated in a state prison for a longer period of time. Under the bill, several offenses involving leaving the scene of an accident and operating while intoxicated have increased penalties under certain circumstances which could increase the length of stay in a state correctional facility. The bill also adds to the list of crimes of violence for which a judge may impose a sentence that is longer than the advisory or midpoint sentence.

Enhanced Penalties: Depending upon mitigating and aggravating circumstances, a Class D felony is punishable by a prison term ranging between 6 months to 3 years or reduction to Class A misdemeanor; a Class C felony is punishable by a prison term ranging between 2 to 8 years; a Class B felony is punishable by a prison term ranging from 6 to 20 years; and a Class A felony is punishable by a prison term ranging from 20 to 50 years.

More offenders could mean increased costs to the Department of Correction (DOC). The average expenditure to house an adult offender was \$19,185 in FY 2007. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,138. The average length of stay in DOC facilities for all Class A felony offenders is approximately 9.1 years, for all Class B felony offenders is approximately 3.7 years, for all Class C felony offenders is approximately 2 years, and for all Class D offenders is about 10 months.

Crimes of Violence: When the court imposes a consecutive sentence for a felony conviction that is not a crime of violence and that arises out of one episode of criminal conduct, the court is required to use the advisory sentence (midpoint between the range maximum and minimum). Under the bill, operating a motor vehicle while intoxicated causing serious bodily injury to another person and resisting law enforcement as a felony offense would be added to the crimes of violence which are exceptions to this sentencing law.

License Suspension: The bill would allow the court to suspend a driver's license before or after a period of incarceration or both. Costs for tracking offender license suspensions are not expected to increase costs for the Bureau of Motor Vehicles.

(Revised) Background Information- The following table provides information about the underlying crimes in the bill.

Indiana Code	Current Crime Class	Ave. No. of Offenders Admitted to a DOC Facility (2002-2005)	Proposed Change
IC 9-26-1-8 Failing to stop at the scene of an accident.	Class A misdemeanor.	N/A	Class B felony after operating a vehicle while intoxicated and causing serious bodily injury. Class A felony after operating a vehicle while intoxicated and causing death.
IC 9-30-5-3 Operating a vehicle while intoxicated with a previous conviction or a minor in the vehicle.	Class D felony.	1,200	Class C felony enhancement if the person has a previous conviction for driving while intoxicated causing death.
IC 9-30-5-4 Operating a vehicle while intoxicated causing serious bodily injury.	Class D felony, or Class C felony with prior conviction.	32 14	Class C felony, or Class B felony with prior conviction. Becomes a crime of violence.
IC 9-30-5-5 Operating a vehicle while intoxicated causing death.	Class C felony, or Class B felony causing death with certain intoxicant levels.	28 6	Class A felony for the enhanced penalty.
IC 35-44-3-3 Felony resisting law enforcement (as a felony offense).	Class D felony Class C felony Class B felony	266 4 8	Becomes a crime of violence.

The Bureau of Motor Vehicles reports the number of drivers with suspended licenses for OWI-related offenses as the following.

New License Suspensions by Calendar Year						
	2000	2001	2002	2003	204	2005
OWI per se	2,459	3,048	4,617	4,885	5,017	4,717
OWI	13,332	12,499	13,024	12,137	11,718	11,539
OWI/ Unspecified	16	11	17	7	6	5
Prior OWI/5 Yrs	4,006	3,772	3,799	4,328	4,233	3,971
OWI Causing Injury	67	64	75	76	87	86
OWI Causing Death	27	21	22	30	29	36
Total OWI-Related Suspensions	19,907	19,415	21,554	21,463	21,090	20,354

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Bureau of Motor Vehicles.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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